

House File 556 - Enrolled

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HOUSE FILE 556

AN ACT

ESTABLISHING THE IOWA PROPANE EDUCATION AND RESEARCH COUNCIL,
PROVIDING FOR THE DEVELOPMENT OF PROGRAMS AND PROJECTS
RELATED TO PROPANE, PROVIDING FOR AN ASSESSMENT ON THE SALE
OF ODORIZED PROPANE, PROVIDING CRIMINAL PENALTIES, AND
PROVIDING FOR A FUTURE REPEAL AND FOR EFFECTIVE DATES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 101B.1 SHORT TITLE.
This chapter shall be known as and may be cited as the
"Iowa Propane Education and Research Act".

Sec. 2. NEW SECTION. 101B.2 DEFINITIONS.
As used in this chapter, unless the context otherwise
requires:

1. "Council" means the Iowa propane education and research
council established pursuant to section 101B.3.

2. "Education" means any activity designed to provide
information regarding propane, propane equipment, mechanical
and technical practices, and uses of propane, to consumers and
members of the propane industry.

3. "Fire marshal" means the state fire marshal as provided
in section 100.1.

4. "Odorized propane" means propane to which an odorant
has been added.

5. "Propane" means a hydrocarbon with a chemical
composition that is predominately C₃H₈, whether recovered from
natural gas or crude oil, and includes liquefied petroleum
gases and mixtures.

6. "Propane industry" means those persons involved in the
production, transportation, and sale of propane, and in the
manufacture and distribution of propane utilization equipment.

7. "Propane industry trade association" means an
organization exempt from tax under section 501(c)(3) or
501(c)(6) of the Internal Revenue Code, that represents the
propane industry.

8. "Public member" means a member of the council, other
than a representative of a retail propane marketer, who
represents a significant user of propane, a public safety
official, a state regulatory official, or another group
knowledgeable about propane.

9. "Qualified propane industry organization" means the
Iowa propane gas association or any other similarly
constituted industry trade association that represents at
least thirty-five percent of the total volume of odorized
propane sold at retail in this state.

10. "Research" means any type of study, investigation,
program, or other activity designed to advance the image,
desirability, usage, marketability, efficiency, or safety of
propane or to further the development of information related
to such activities.

11. "Retail propane dispenser" means a person who sells
odorized propane to the ultimate consumer but is not engaged
primarily in the business of such sales.

12. "Retail propane marketer" means a person engaged
primarily in the sale of odorized propane to the ultimate
consumer or to a retail propane dispenser.

Sec. 3. NEW SECTION. 101B.3 IOWA PROPANE EDUCATION AND
RESEARCH COUNCIL ESTABLISHED.

1. The Iowa propane education and research council is
established. Members of the council shall be appointed by the
governor from a list of nominees submitted by qualified
propane industry organizations within thirty days after the
effective date of this Act and by December 15 of each year
thereafter. The council shall consist of ten voting members,
nine of whom represent retail propane marketers and one of
whom shall be a public member. Qualified propane industry
organizations shall together nominate all members of the
council. A vacancy in the unfinished term of a council member
shall be filled for the remainder of the term in the same
manner as the original appointment was made. Other than the

3 4 public member, council members shall be full-time employees or
3 5 owners of a propane industry business or representatives of an
3 6 agricultural cooperative actively engaged in the propane
3 7 industry. An employee of a qualified propane industry
3 8 organization shall not serve as a member of the council. An
3 9 officer of the board of directors of a qualified propane
3 10 industry organization or propane industry trade association
3 11 shall not serve concurrently as a member of the council. The
3 12 fire marshal or a designee may serve as an ex officio,
3 13 nonvoting member of the council.

3 14 2. In nominating members of the council, qualified propane
3 15 industry organizations shall give due consideration to
3 16 nominating council members who are representative of the
3 17 propane industry, including representation of all of the
3 18 following:

3 19 a. Interstate and intrastate retail propane marketers.
3 20 b. Large and small retail propane marketers, including
3 21 agricultural cooperatives.
3 22 c. Diverse geographic regions of the state.

3 23 3. The following persons shall be ex officio, nonvoting
3 24 members of the council designated for three-year terms as
3 25 follows:

3 26 a. A professional fire fighter designated by the Iowa
3 27 association of professional fire chiefs.
3 28 b. A volunteer fire fighter designated by the Iowa
3 29 firemen's association.
3 30 c. An experienced plumber involved in plumbing training
3 31 programs designated by the Iowa state building and
3 32 construction trades council.
3 33 d. A heating, ventilation, and air conditioning
3 34 professional involved in heating, ventilation, and air
3 35 conditioning training programs designated by the Iowa state
4 1 building and construction trades council.
4 2 e. A community college instructor with experience in
4 3 conducting fire safety programs designated by the Iowa
4 4 association of community college presidents.
4 5 f. A representative of a property and casualty insurance
4 6 company with experience in insuring sellers of propane gas
4 7 designated by the Iowa insurance institute.

4 8 4. A council member, other than the public member, shall
4 9 not receive compensation for the council member's service and
4 10 shall not be reimbursed for expenses relating to the council
4 11 member's service. The public member shall receive a per diem
4 12 as specified in section 7E.6 and shall be reimbursed for
4 13 actual expenses incurred in performing official duties of the
4 14 council not to exceed forty days per year. A member of the
4 15 council shall not be a salaried employee of the council or of
4 16 any organization or agency which receives funds from the
4 17 council.

4 18 5. A council member shall serve a term of three years and
4 19 shall not serve more than two full consecutive terms. A
4 20 council member filling an unexpired term may serve not more
4 21 than a total of seven consecutive years. A former council
4 22 member may be appointed to the council if the former member
4 23 has not been a member of the council for a period of at least
4 24 two years.

4 25 6. Initial appointments to the council shall be for terms
4 26 of one, two, and three years that are staggered to provide for
4 27 the future appointment of at least two members each year.

4 28 7. The voting members of the council shall select a
4 29 chairperson and other officers as necessary from the voting
4 30 members and shall adopt rules and bylaws for the conduct of
4 31 business and the implementation of this chapter. The council
4 32 may establish committees and subcommittees comprised of
4 33 members of the council and may establish advisory committees
4 34 comprised of persons other than council members. The council
4 35 shall establish procedures for the solicitation of propane
5 1 industry comments and recommendations regarding any
5 2 significant plans, programs, or projects to be funded by the
5 3 council.

5 4 8. The council shall develop programs and projects and
5 5 enter into agreements for administering such programs and
5 6 projects as provided in this chapter, including programs to
5 7 enhance consumer and employee safety and training, provide for
5 8 research and development of clean and efficient propane
5 9 utilization equipment, inform and educate the public about
5 10 safety and other issues associated with the use of propane,
5 11 and develop programs and projects that provide assistance to
5 12 persons who are eligible for the low-income home energy
5 13 assistance program. The programs and projects shall be
5 14 developed to attain equitable geographic distribution of their

5 15 benefits to the fullest extent practicable. The costs of the
5 16 programs and projects shall be paid with funds collected
5 17 pursuant to section 101B.4. The council shall coordinate its
5 18 programs and projects with propane industry trade associations
5 19 and others as the council deems appropriate to provide
5 20 efficient delivery of services and to avoid unnecessary
5 21 duplication of activities. Issues concerning propane that are
5 22 related to research and development, safety, education, and
5 23 training shall be given priority by the council in the
5 24 development of programs and projects.

5 25 9. At the beginning of each fiscal year, the council shall
5 26 prepare a budget plan for the next fiscal year, including the
5 27 probable cost of all programs, projects, and contracts to be
5 28 undertaken. The council shall submit the proposed budget to
5 29 the fire marshal for review and comment. The fire marshal may
5 30 recommend appropriate programs, projects, and activities to be
5 31 undertaken by the council.

5 32 10. The council shall keep minutes, books, and records
5 33 that clearly reflect all of the acts and transactions of the
5 34 council which are public records open to public inspection.
5 35 The books and records shall indicate the geographic areas
6 1 where benefits were conferred by each individual program or
6 2 project in detail sufficient to reflect the degree to which
6 3 each program or project attained equitable geographic
6 4 distribution of its benefits. The books of the council shall
6 5 be audited by a certified public accountant at least once each
6 6 fiscal year and at such other times as the council may
6 7 designate. The cost of the audit shall be paid by the
6 8 council. Copies of the audit shall be provided to all council
6 9 members, all qualified propane industry organizations, and to
6 10 other members of the propane industry upon request. In
6 11 addition, a copy of the audit and a report detailing the
6 12 programs and projects conducted by the council and containing
6 13 information reflecting the degree to which equitable
6 14 geographic distribution of the benefits of each program or
6 15 project was attained shall be submitted each fiscal year to
6 16 the chief clerk of the house of representatives and the
6 17 secretary of the senate.

6 18 11. The council is subject to the open meeting
6 19 requirements of chapter 21.

6 20 12. The council shall promulgate administrative rules
6 21 pursuant to chapter 17A which shall have the same force and
6 22 effect as if adopted by a state agency. Initial rules shall
6 23 be promulgated on an emergency basis.

6 24 13. The council shall also perform the functions required
6 25 of a state organization under the federal Propane Education
6 26 and Research Act of 1996, be the repository of funds received
6 27 under that Act, and separately account for those funds. The
6 28 council shall coordinate the operation of the program with the
6 29 federal council as contemplated by 15 U.S.C. } 6405.

6 30 Sec. 4. NEW SECTION. 101B.4 FUNDING == ASSESSMENTS.

6 31 1. The council and its activities shall be funded by an
6 32 annual assessment. Upon establishment of the council and each
6 33 year thereafter the annual assessment shall be made at a rate
6 34 of one-tenth of one cent on each gallon of odorized propane
6 35 sold.

7 1 2. The owner of odorized propane at the time of
7 2 odorization or at the time of import shall calculate the
7 3 amount of the assessment based on the volume of odorized
7 4 propane sold for use in this state. The assessment, when
7 5 made, shall be listed as a separate line item on the bill of
7 6 sale for the odorized propane and titled "Iowa propane
7 7 education and research assessment". Assessments shall be
7 8 collected by the owner from purchasers of the odorized propane
7 9 and shall be paid by the owner to the council on a monthly
7 10 basis by the twenty-fifth day of the month following the month
7 11 the assessment was collected. If payment is not made to the
7 12 council by the due date as required by this subsection, an
7 13 interest penalty of one percent of any amount unpaid shall be
7 14 imposed against the owner for each month or fraction of a
7 15 month after the due date, until final payment is made.

7 16 3. Notwithstanding subsection 2, the council may establish
7 17 an alternative means of collecting such assessments if the
7 18 council determines that another method would be more efficient
7 19 or effective and may establish an alternative late payment
7 20 charge or interest penalty to be imposed on a person who fails
7 21 to timely pay any amount due under this chapter to the
7 22 council.

7 23 4. Pending the disbursement of assessments collected, the
7 24 council shall invest moneys collected through assessments and
7 25 any other monies received by the council in any of the

7 26 following:
7 27 a. Obligations of the United States or any agency of the
7 28 United States.
7 29 b. General obligations of any state or political
7 30 subdivision of any state.
7 31 c. Any interest-bearing account or certificate of deposit
7 32 of a bank that is a member of the federal reserve system.
7 33 d. Obligations that are fully guaranteed as to principal
7 34 and interest by the United States.

7 35 Sec. 5. NEW SECTION. 101B.5 REFERENDUM FOR TERMINATION
8 1 OF COUNCIL.
8 2 On the council's own initiative or on petition to the
8 3 council by retail propane marketers representing thirty-five
8 4 percent of the volume of odorized propane sold in this state,
8 5 the council shall, at its own expense, arrange for a
8 6 referendum to be conducted by an independent auditing firm
8 7 agreed upon by the retail propane marketers, to determine
8 8 whether the council should be terminated or suspended. Voting
8 9 rights in the referendum shall be based on the volume of
8 10 odorized propane sold in this state by each retail propane
8 11 marketer during the previous calendar year. Each retail
8 12 propane marketer voting in the referendum shall certify to the
8 13 independent auditing firm the volume of odorized propane sold
8 14 by that person as represented by that person's vote. Upon the
8 15 approval of those retail propane marketers representing more
8 16 than one-half of the total volume of odorized propane sold in
8 17 this state, the council shall be terminated or suspended and
8 18 the general assembly shall consider the repeal of this chapter
8 19 during its next regular session.

8 20 Sec. 6. NEW SECTION. 101B.6 COMPLIANCE.
8 21 The district court is vested with the jurisdiction
8 22 specifically to enforce this chapter and to prevent or
8 23 restrain any person from violating this chapter. A successful
8 24 action for compliance brought under this section may also
8 25 require payment by the defendant of the costs incurred by the
8 26 council in bringing the action.

8 27 Sec. 7. NEW SECTION. 101B.7 LOBBYING RESTRICTIONS.
8 28 Moneys collected by the council shall not be used in any
8 29 manner for influencing legislation or elections, except that
8 30 the council may recommend changes in this chapter or other
8 31 statutes that would further the purposes of this chapter to
8 32 the general assembly.

8 33 Sec. 8. NEW SECTION. 101B.8 PRICING.
8 34 In all cases, the price of propane shall be determined by
8 35 market forces. Consistent with antitrust laws, the council
9 1 shall not take any action regarding, and this chapter shall
9 2 not be interpreted as establishing, an agreement to pass along
9 3 to consumers the cost of the assessment provided for in
9 4 section 101B.4.

9 5 Sec. 9. NEW SECTION. 101B.9 RELATION TO OTHER PROGRAMS.
9 6 This chapter shall not be construed to preempt or supersede
9 7 any other program relating to propane education and research
9 8 organized and operated under the laws of this state. This
9 9 chapter shall be administered and construed as complementary
9 10 to the federal Propane Education and Research Act of 1996, 15
9 11 U.S.C. } 6401 et seq.

9 12 Sec. 10. NEW SECTION. 101B.10 BOND.
9 13 Any person occupying a position of trust under any
9 14 provision of this chapter shall provide a bond in an amount
9 15 required by the council. The costs of obtaining the bond
9 16 shall be paid out of council funds.

9 17 Sec. 11. NEW SECTION. 101B.11 REPORT.
9 18 The council shall prepare and submit an annual report to
9 19 the fire marshal and the auditor of state summarizing the
9 20 activities of the council conducted pursuant to this chapter.
9 21 The report shall show all income, expenses, and other relevant
9 22 information concerning assessments collected and expended
9 23 under this chapter.

9 24 Sec. 12. NEW SECTION. 101B.12 NOT A STATE AGENCY.
9 25 The Iowa propane education and research council is not a
9 26 state agency.

9 27 Sec. 13. NEW SECTION. 101B.13 PENALTY.
9 28 A person who willfully violates the provisions of this
9 29 chapter or willfully renders or furnishes a false or
9 30 fraudulent report, statement, or record required by the fire
9 31 marshal pursuant to this chapter is guilty of a simple
9 32 misdemeanor.

9 33 Sec. 14. NEW SECTION. 101B.14 FUTURE REPEAL.
9 34 This chapter is repealed December 31, 2014.

9 35 Sec. 15. EFFECTIVE DATES.
10 1 1. This Act, except section 4, being deemed of immediate

10 2 importance, takes effect upon enactment.
10 3 2. Section 4 of this Act takes effect January 1, 2008, or
10 4 upon adoption of administrative rules implementing section 4,
10 5 whichever occurs first.

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PATRICK J. MURPHY
10 10 Speaker of the House

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JOHN P. KIBBIE
10 14 President of the Senate
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10 17 I hereby certify that this bill originated in the House and
10 18 is known as House File 556, Eighty-second General Assembly.

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MARK BRANDSGARD
10 23 Chief Clerk of the House

10 24 Approved _____, 2007

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CHESTER J. CULVER
10 28 Governor
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